



Connecticut Department of
**ENERGY &
ENVIRONMENTAL
PROTECTION**

**STATE OF CONNECTICUT
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION**

Public Hearing – March 4, 2013
Judiciary Committee

Testimony Submitted by Commissioner Dan Esty

**RAISED SENATE BILL 987 - AN ACT CONCERNING THE MAINTENANCE OF TREES BY HOMEOWNERS
RAISED HOUSE BILL 6512 - AN ACT CONCERNING MAINTENANCE OF PRIVATE EASEMENTS AND
RIGHTS-OF-WAY**

Thank you for the opportunity to present testimony regarding Raised Senate Bill No. 987 - AN ACT CONCERNING THE MAINTENANCE OF TREES BY HOMEOWNERS and Raised House Bill No. 6512 - AN ACT CONCERNING MAINTENANCE OF PRIVATE EASEMENTS AND RIGHTS-OF-WAY. The Department of Energy and Environmental Protection (DEEP) welcomes the opportunity to offer the following testimony.

DEEP has concerns with both of these bills as drafted.

Subsection (b) of Raised Senate Bill No. 987 provides, "An owner of real property shall be deemed to have constructive notice of the disease or defect of a tree located on such owner's real property if such owner receives or refuses to receive a letter sent by certified mail that states a tree located on such owner's real property appears to be diseased or have a defect." The bill does not indicate who may send such a registered letter to a property owner or whether that person has any legitimate interest in the tree in question. It is not clear from the drafting of the bill what problem the bill is trying to resolve.

Most of Connecticut's municipalities have tree wardens who possess statutory responsibilities over public trees. Is the bill attempting to resolve liability issues between adjacent property owners or is it addressing vegetative management issues between public utilities and private property owners? If it is the latter, then we request that the Judiciary Committee consider DEEP's testimony on Raised House Bill No. 6471 as the committee considers this bill. (See H.B. No. 6471 - AN ACT CONCERNING TREE TRIMMING BY UTILITIES)

Similarly, the drafting of Raised House Bill No. 6512 - AN ACT CONCERNING MAINTENANCE OF PRIVATE EASEMENTS AND RIGHTS-OF-WAY concerns DEEP. Subsections (a) and (b) provide, "(a) As used in this section, (1) 'residential real property' has the same meaning as provided in section 20-325c of the general statutes, and (2) 'benefited property' or 'property that benefits' includes a residential real property burdened by an easement or right-of-way, the owner of which property uses such easement or right-of-way.

(b) The owner of any residential real property that benefits from an easement or right-of-way, the purpose of which is to provide access or utilities or both to such property, shall maintain such easement or right-of-way in good repair. Such maintenance shall include, but not be limited to, the removal of snow from such easement or right-of-way."

DEEP is concerned that these provisions might unintentionally bring under the ambit of the bill the hundreds of miles of public utility easements that cross over residential properties in Connecticut. The bill appears to address snow removal between private property owners that share a right of way for the purposes of ingress and egress. However, subsection (b) adds the term utilities with the clause "the purpose of which is to provide access or utilities or both to such property." What is not clear from this language is whether a public utility easement over residential property would be impacted by this bill.

DEEP remains committed to the continuing the state-wide efforts being made by all parties to improve the resiliency of Connecticut's utility infrastructure, but Raised Senate Bill No. 987 and Raised House Bill No. 6512 may negatively impact the role of the Connecticut's municipal partners in this effort.

Finally, DEEP requested, and the Environment Committee raised, H.B. No. 6538 - AN ACT CONCERNING ARBORISTS AND TREE WARDENS. DEEP recommends that this bill be reviewed by members of the Judiciary Committee as a reasonable next step in implementing consensus built recommendations on vegetative management.

Thank you for the opportunity to present testimony on this proposal. If you should require any additional information, please contact DEEP's legislative liaison, Robert LaFrance, at 424-3401 or Robert.LaFrance@ct.gov.